



DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
45 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0045

LAURA A. FORTMAN
COMMISSIONER

JANET T. MILLS
GOVERNOR

WAGE & HOUR DIVISION

MICHAEL ROLAND
DIRECTOR

February 7, 2021

Morales-Martinez Framing Drywall
Attn: Nancy Morales-Martinez, Owner
13 Ventura St,
Lewiston, ME 04240

RE: Violations of 26 MRS, Inspection #460503
Certified Mail: 70151520000109628874

Dear Nancy Morales-Martinez,

When our Inspector, [REDACTED], investigated a complaint against your business received on September 28, 2021, the following violations of Maine Labor Law were found:

26 MRS §664 (3) Overtime Rate requires that employees be paid time-and-one-half their regular hourly rate for all hours worked in excess of 40 hours per week.

*In this case, [REDACTED] worked 50 hours per week for each of the 12 weeks between 04/12/2021 and 07/02/2021 and he was paid \$25.00 per hour. He is owed 120 hours of overtime totaling \$1,500.00. The employer told [REDACTED] that she would pay his overtime wages at a later time, but never compensated him for that work.
(see attached spreadsheet)*

§665. Powers and duties of commissioner

(1) Examination of records, books; copies. Every employer subject to this subchapter shall keep a true and accurate record of the hours worked by each employee and of the wages paid, such records to be preserved by the employer for a period of at least 3 years, and shall furnish to each employee with each payment of wages a statement that clearly shows the date of the pay period, the hours, total earnings and itemized deductions.

In this case, the employer did not provide a detailed pay statement to [REDACTED] with the partial payment of wages made on 10/08/2021.

26 MRS §671 PENALTIES Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200. In the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.

- 12 Violations of §664 (3) x \$50 = \$600.00
- 1 Violation of §665 x \$50 = \$50.00

26 MRS §621-A. Timely and full payment of wages

(1) Minimum frequency and full payment. At regular intervals not to exceed 16 days, every employer must pay in full all wages earned by each employee. Each payment must include all wages earned to within 8 days of the payment date.

In this case, the employer failed to pay [REDACTED] in full all wages earned on each of the 11 pay dates between 04/12/2021 and 06/26/2021.

26 MRS §626. Cessation of employment

An employee leaving employment must be paid in full no later than the employee's next established payday. Any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee.

In this case, the employer failed to pay [REDACTED] his final wages of \$1,375.00 on the established pay date of 07/03/2021. The employer paid [REDACTED] \$800.00 on 10/08/2021 after deducting \$200 for an outstanding balance on a loan he allegedly owed to the employer. The remaining balance of \$375.00 is still unpaid.

26 MRS §622 Records requires that employers keep a true record showing the date and amount paid to each employee. Every employer shall keep a daily record of the time worked by each such employee. Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour.

In this case, [REDACTED] worked 5 days per week, 10 hours per day between 04/12/2021 and 07/02/2021. The employer failed to provide inspector [REDACTED] access to the 60 daily time records and 12 separate payroll records in accordance with this statute even after she acknowledged receiving the request for records on 10/19/2021.

26 MRS §626-A PENALTIES Whoever violates any of the provisions of sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation. Each employee is counted as a separate violation, each pay cycle.

- 11 Violations of §621-A x \$100 = \$1,100
- 1 Violation of §626 x \$100 = \$100
- 72 Violations of §622 x \$100 = \$7,200.00

The total penalty for the above violation(s) is \$9,050.00.

Make checks payable to the “Treasurer, State of Maine”

The violations identified above will become a final order within fifteen (15) business days from the day it was received unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above.

Employer options (within 15 business days):

If you intend to correct all violations identified and wish to work with the Wage & Hour Division to possibly reduce the penalty amount, you may request a "Penalty Discussion". This discussion will pertain only to the penalty(s) and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

You may file a formal appeal of any violation or penalty within fifteen (15) days of receipt of this citation. Please be specific as to what violation(s) or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a "hearing". The Director will serve as the hearing officer or may assign the appeal to the Administrative Hearings Division within the Department of Labor. The hearing will be at the headquarters of the Bureau or at a place mutually agreeable to the parties. All proposed penalties will be stayed until after the formal appeal is heard.

As the employer, you must respond in writing to the Director of the Bureau, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose. If no response is received within that time frame you accept all citations and any penalties assessed. The citation will become a final order and payment will be due at that time, made payable to "**Treasurer, State of Maine**" and mailed to the address at the top of this citation.

We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties for each violation that is not corrected.

If you have questions regarding this citation, you may contact the Bureau of Labor Standards, Wage & Hour Division at (207) 623-7900.

Dates to remember:

Respond in writing, to the Director of the Bureau within fifteen (15) business days of receipt of this citation indicating what option you choose.

Respectfully,



Scott Cotnoir, Director
Wage and Hour Division
Inspection # 460503